

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 420

BY BUSINESS COMMITTEE

AN ACT

RELATING TO INSURANCE ADMINISTRATORS; AMENDING SECTION 41-911, IDAHO CODE, TO ALLOW SUBMISSION OF UNAUDITED FINANCIAL STATEMENTS IN CONNECTION WITH HOME STATE LICENSE APPLICATIONS, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 41-914, IDAHO CODE, TO REVISE ANNUAL REPORTING REQUIREMENTS FOR LICENSED ADMINISTRATORS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-911, Idaho Code, be, and the same is hereby amended to read as follows:

41-911. HOME STATE LICENSE. (1) A person shall apply to be an administrator in its home state and shall receive a license from the regulatory authority of its home state prior to performing any function of an administrator in this state.

(2) A person applying to Idaho as the home state shall submit to the director an application in the form prescribed by the director that shall include or be accompanied by the following information and documents:

(a) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, certificate of existence from the Idaho secretary of state and other applicable documents and all amendments to such documents;

(b) The bylaws, rules, regulations or similar documents regulating the internal affairs of the applicant;

(c) NAIC biographical affidavits for the individuals who are directly or indirectly responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, association or limited liability company, any shareholders or members holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities or voting interest of the applicant and any other person who directly or indirectly exercises control or influence over the affairs of the applicant;

(d) Audited annual financial statements or reports for the two (2) most recent fiscal years that ~~prove~~ demonstrate that the applicant has a positive net worth. If the applicant has been in existence for less than two (2) fiscal years, the uniform application shall include financial statements or reports, certified by an at least two (2) officers, owners or directors of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which such financial statements or reports have been completed. An audited annual financial report prepared on a consolidated

basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

- (i) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;
- (ii) Amounts for each entity shall be stated separately; and
- (iii) Explanations of consolidating and eliminating entries shall be included.

The applicant shall also include such other information as the director may require in order to review the current financial condition of the applicant;

(e) In lieu of submitting audited financial statements, and upon written application by an applicant and good cause shown, the director may grant a hardship exemption from filing audited financial statements and allow the submission of unaudited financial statements. Acceptable formats for unaudited financial statements, which shall include notes, are:

- (i) Reports compiled or reviewed by a certified public accountant; or
- (ii) Internal financial reports prepared in accordance with GAAP, certified by at least two (2) officers, owners or directors of the administrator.

If unaudited financial statements are submitted, the applicant must also secure and maintain a surety bond in a form prescribed by the director for the use and benefit of the director to be held in trust for the benefit and protection of covered persons and any insurer or self-funded plan against loss by reason of acts of fraud or dishonesty, for the greater of ten percent (10%) of funds handled for the benefit of Idaho residents or twenty thousand dollars (\$20,000). Administrators of self-funded plans in Idaho are subject to the mandatory surety bond requirement found in subsection (8) of this section, regardless of whether they file audited or unaudited financial reports;

(f) A statement describing the business plan, including information on staffing levels and activities, proposed in this state and nationwide. The plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, recordkeeping and underwriting;

(fg) The license application fee as provided for by rule; and

(gh) Such other pertinent information as may be required by the director.

(3) An administrator licensed or applying for licensure under the provisions of this section shall make available for inspection by the director, copies of all contracts with insurers or other persons utilizing the services of the administrator.

(4) An administrator licensed or applying for licensure under the provisions of this section shall produce its accounts, records and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the director.

(5) The director may refuse to issue a license if the director determines that the ~~administrator~~ applicant or any individual responsible for the conduct of affairs of the ~~administrator~~ applicant is not competent,

1 trustworthy, financially responsible or of good personal and business repu-  
 2 tation, or has had an insurance or an administrator certificate of authority  
 3 or license denied or revoked for cause by any jurisdiction, or if the direc-  
 4 tor determines that any of the grounds set forth in section 41-915, Idaho  
 5 Code, exist with respect to the administrator applicant.

6 (6) A license issued under this section shall remain valid, unless sur-  
 7 rendered, suspended or revoked by the director, for so long as the adminis-  
 8 trator continues in business in this state and remains in compliance with the  
 9 provisions of this chapter and any applicable rules.

10 (7) An administrator licensed or applying for licensure under the pro-  
 11 visions of this section shall immediately notify the director of any mate-  
 12 rial change in its ownership, control or other fact or circumstance affect-  
 13 ing its qualification for a license in this state.

14 (8) An administrator licensed or applying for a home state license that  
 15 administers or will administer self-funded health plans subject to regula-  
 16 tion under chapter 40 or 41, title 41, Idaho Code, shall maintain a surety  
 17 bond in a form prescribed by the director for the use and benefit of the di-  
 18 rector to be held in trust for the benefit and protection of covered persons  
 19 and ~~the any insurer or insurers~~ self-funded plan against loss by reason of  
 20 acts of fraud or dishonesty. The bond shall be in the greater of the follow-  
 21 ing amounts:

22 (a) One hundred thousand dollars (\$100,000); or

23 (b) An amount equal to the greater of ten percent (10%) of the contribu-  
 24 tions collected by the administrator from self-funded plans subject to  
 25 regulation under chapters 40 and 41, title 41, Idaho Code, or ten per-  
 26 cent (10%) of the benefits paid by such self-funded plans administered  
 27 during the preceding calendar year. If the administrator did not admin-  
 28 ister any self-funded plans subject to regulation under chapter 40 or  
 29 41, title 41, Idaho Code, during the preceding calendar year, the bond  
 30 shall be in an amount equal to ten percent (10%) of the contributions  
 31 projected to be received by the administrator from such self-funded  
 32 plans during the next calendar year.

33 SECTION 2. That Section 41-914, Idaho Code, be, and the same is hereby  
 34 amended to read as follows:

35 41-914. ANNUAL REPORT. (1) Each administrator licensed under the pro-  
 36 visions of this chapter shall file an annual report for the preceding calen-  
 37 dar year with the director on or before July 1 of each year, or within such  
 38 extension of time as the director for good cause may grant. The annual report  
 39 shall include:

40 (a) ~~An~~ an audited financial statement ~~performed~~ attested to by an inde-  
 41 pendent certified public accountant. An audited annual financial re-  
 42 port prepared on a consolidated basis shall include a columnar consol-  
 43 idating or combining worksheet that shall be filed with the report and  
 44 include the following:

45 (a*i*) Amounts shown on the consolidated audited financial report  
 46 shall be shown on the worksheet;

47 (b*ii*) Amounts for each entity shall be stated separately; and

48 (c*iii*) Explanations of consolidating and eliminating entries  
 49 shall be included.

1       (b) In lieu of submitting an audited financial statement, and upon  
2       written application by an administrator and good cause shown, the di-  
3       rector may grant a hardship exemption from filing audited financial  
4       statements and allow the submission of unaudited financial statements.  
5       Acceptable formats for unaudited financial statements, which shall in-  
6       clude notes, are:

7               (i) Reports compiled or reviewed by a certified public accoun-  
8               tant; or

9               (ii) Internal financial reports prepared in accordance with GAAP,  
10              certified by at least two (2) officers, owners or directors of the  
11              administrator.

12       If unaudited financial statements are submitted, the administrator  
13       must secure and maintain a surety bond in a form prescribed by the  
14       director for the use and benefit of the director to be held in trust  
15       for the benefit and protection of covered persons and any insurer or  
16       self-funded plan against loss by reason of acts of fraud or dishonesty,  
17       for the greater of ten percent (10%) of funds handled for the benefit of  
18       Idaho residents or twenty thousand dollars (\$20,000).

19       (2) The annual report shall be in the form and contain such matters as  
20       the director prescribes and shall be verified by at least two (2) officers,  
21       owners or directors of the administrator.

22       (23) The annual report shall include the complete names and addresses  
23       of all insurers and for self-funded plans, all employers and trusts, with  
24       which the administrator had agreements during the preceding fiscal year.  
25       The report shall also include the number of Idaho residents covered by each  
26       of the plans.